

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

v. : S1 19 Cr. 373 (PGG)

MICHAEL AVENATTI :

Defendant. :

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**DEFENDANT AVENATTI'S NOTICE OF MOTION  
FOR A WRITTEN JUROR QUESTIONNAIRE**

PLEASE TAKE NOTICE, that upon the accompanying Declaration of Scott A. Srebnick and Memorandum in Support, defendant Michael Avenatti will move this Court, before the Honorable Paul G. Gardephe at the United States Courthouse, 40 Foley Square, Courtroom 705, New York, NY 10007, for an Order granting a written juror questionnaire. A copy of Defendant Avenatti's Proposed Juror Questionnaire is attached as Exhibit 1.

Dated: November 15, 2019

Respectfully submitted,

By: /s/Scott A. Srebnick  
Scott A. Srebnick, P.A.  
201 South Biscayne Boulevard, #1210  
Miami, FL 33131  
Telephone: (305) 285-9019  
Facsimile: (305) 377-9937  
E-Mail: [Scott@srebnicklaw.com](mailto:Scott@srebnicklaw.com)

By: /s/Jose M. Quinon  
Jose M. Quinon, P.A.  
2333 Brickell Avenue, Suite A-1  
Miami, FL 33129  
Telephone: (305) 858-5700  
Facsimile: (305) 358-7848  
E-Mail: [jquinon@quinonlaw.com](mailto:jquinon@quinonlaw.com)

**CERTIFICATE OF SERVICE**

I hereby certify that on November 15, 2019, I caused a true and correct copy of the foregoing to be served by electronic means, via the Court's CM/ECF system, on all counsel registered to receive electronic notices.

/s/Scott A. Srebnick  
Scott A. Srebnick

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, :  
vs. : S1 No. 19 Cr. 373 (PGG)  
MICHAEL AVENATTI, :  
Defendant. :

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**DEFENDANT AVENATTI'S PROPOSED JUROR QUESTIONNAIRE**

Scott A. Srebnick  
SCOTT A. SREBNICK, P.A.  
201 South Biscayne Boulevard  
Suite 1210  
Miami, FL 33131  
Telephone: (305) 285-9019  
Facsimile: (305) 377-9937  
E-Mail: [Scott@srebnicklaw.com](mailto:Scott@srebnicklaw.com)

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2333 Brickell Avenue, Suite A-1  
Miami, FL 33129  
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*Attorneys for Defendant Michael Avenatti*

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

**TO THE PROSPECTIVE JUROR:**

The purpose of this **confidential** questionnaire is to provide information to the judge, the prosecutors, the defense attorneys, and the Defendant to assist them in determining whether you can be a fair and impartial juror in this case. You must give true and complete answers to every question.

Where indicated, please check the space for “Yes” or “No” and, as requested, furnish answers, explanations, and/or details in the spaces provided. Please print your answers in blue or black ink. Please do not leave any questions unanswered. If you don’t understand any question, please write, “I don’t understand.” If there is not enough space for you to complete the answer to a question, please continue your answer on the back of the page.

All of your responses will remain completely confidential. Do not discuss the questions or answers with anyone, including your fellow prospective jurors. It is extremely important that your answers be your own answers and not influenced by those around you. During the jury selection process, it is critically important that you not read anything about the case, that you not discuss it with anyone, that you not let anyone talk to you about the case, and that you do not do any research about the case on the Internet or any place else. If you are selected for the jury, I will have more instructions for you later on this topic.

Please enter your name and juror number on the front page of the questionnaire and at the top of each page.

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

## **INTRODUCTION**

### **NATURE OF CASE:**

This is a criminal case. The defendant, Michael Avenatti, is a lawyer charged with extortion for allegedly threatening to injure the reputation of, and cause economic harm to, Nike if Nike did not meet certain settlement demands that Mr. Avenatti made during settlement discussions with lawyers for Nike in March 2019. At the time, Mr. Avenatti, as a lawyer, was representing a client named Gary Franklin, who coached the California Supreme travel basketball team in Nike's Elite Youth Basketball League, a nationwide league of the top amateur high school players in the country. Mr. Avenatti is also charged with wire fraud for allegedly depriving Coach Franklin of his right to Mr. Avenatti's honest services.

Mr. Avenatti is presumed innocent of the charges against him, and it is the Government's burden to prove, beyond a reasonable doubt, that he committed these crimes. Mr. Avenatti has no burden to present any evidence at all and, indeed, has no obligation to testify at trial.

This case has received significant press attention. Many of you may have heard of Mr. Avenatti. He is a well-known lawyer who has been involved in a number of high-profile matters. Many of you may also have views about amateur basketball and whether high school basketball players should be paid. Accordingly, this questionnaire asks whether you have read, seen, or heard anything about Mr. Avenatti or this case, whether you have strong views about some of the topics that may arise during the trial, and whether you will follow the Court's instructions to decide this case based solely on the evidence that will be presented in court.

It is vitally important that the jury's verdict be based solely on the evidence received in the courtroom, and not on what might have been written or said about Mr. Avenatti in the media, including social media. Nothing that has been said or written about Mr. Avenatti matters at all at trial. Instead, we rely on people like you to listen carefully to the evidence and the judge's instructions on the law, and come to a verdict based solely on that evidence and that law.

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

**QUESTIONS**

1. Do you have any physical/medical problem(s) that would interfere with your ability to serve as a juror? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain the hardship:

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2. Is English your native language? \_\_\_\_\_ Yes \_\_\_\_\_ No

If no, do you have any difficulty reading or understanding English?

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3. Please provide the following information:

a. Marital Status: \_\_\_\_\_

If married, spouse's occupation: \_\_\_\_\_

b. Are you:

\_\_\_\_\_ Employed full-time

\_\_\_\_\_ Self Employed

\_\_\_\_\_ Retired

\_\_\_\_\_ Student (if so, indicate area of study: \_\_\_\_\_)

\_\_\_\_\_ Employed part-time                  \_\_\_\_\_ Homemaker

\_\_\_\_\_ Unemployed/laid-off                  \_\_\_\_\_ Other (Please describe)

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

c. What is your occupation (please list name of employer)?  
\_\_\_\_\_

d. How long have you been engaged in your current occupation? \_\_\_\_\_

e. If you are retired, unemployed, or have been at your current occupation less than five years, what was your previous occupation? \_\_\_\_\_

f. What are/were your specific duties at your job? \_\_\_\_\_

g. How many people do you supervise? \_\_\_\_\_

h. Do you have any children? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please fill out the chart below:

<u>Age</u>	<u>Male/Female</u>	<u>Occupation or Year in School</u>
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4. Educational Background:

Less than High School

High School graduate

College Graduate. If so, please indicate degree and/or field of study:  
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Post-Graduate degree. If so, please indicate degree and/or field of study:  
\_\_\_\_\_

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**JUROR NAME:** \_\_\_\_\_

**JUROR NUMBER:** \_\_\_\_\_

5. Have you ever heard of Michael Avenatti? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes: How did you hear about him, did you form an opinion about Mr. Avenatti as a person as a result of what you have seen or heard, and if so, what is that opinion? Please explain.

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6. Have you read, seen, or heard anything about this case? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes: What have you read, seen or heard and where did you get your information?

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7. Based on what you have read, seen, or heard about this case, did you form an opinion about Mr. Avenatti's guilt? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes: What is your opinion? \_\_\_\_\_

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**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

8. Would your opinion interfere with your ability to decide this case based solely on the evidence presented at trial? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain: \_\_\_\_\_

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9. Have you read, seen, or heard anything about any other cases involving Mr. Avenatti?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes: Please describe or summarize every case you associate with Mr. Avenatti, including what you have read, seen or heard about the case and where did you get your information? \_\_\_\_\_

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10. In 2018, Michael Avenatti sued President Trump on behalf of Stormy Daniels. Have you heard about that lawsuit? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes: What have you heard? Is there anything about Mr. Avenatti's filing of lawsuits against President Trump that may make it difficult for you to be a fair and impartial juror in this case? Please explain.

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**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

11. Are you a fan of high school or college basketball? If so, of what teams or players?

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12. Do you believe that clothing and shoe companies should be permitted to pay amateur basketball players in high school and college? \_\_\_\_ Yes \_\_\_\_ No

Please explain: \_\_\_\_\_

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13. Do you believe that amateur basketball players (high school and college) should be paid? \_\_\_\_ Yes \_\_\_\_ No

Please explain: \_\_\_\_\_

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14. Do you believe a lawyer representing a client should not communicate with the press, go on television, or hold press conferences? \_\_\_\_ Yes \_\_\_\_ No

Please explain. \_\_\_\_\_

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**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

15. Mr. Avenatti is a civil trial lawyer who sues individuals and corporations.

a. What is your opinion of civil trial lawyers?

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b. Do you believe there are too many lawsuits in this country?

Please explain: \_\_\_\_\_

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c. Do you believe that people are too ready to sue?

Please explain: \_\_\_\_\_

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d. Do you believe that lawsuits are costing us all too much money?

Please explain: \_\_\_\_\_

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e. Do you feel that money damages awarded in lawsuits are:

Excessive?  Occasionally too low?

Often too large?  Often too low?

About right?

f. Do you have any negative opinions about people who bring lawsuits for money damages to compensate them for injury or harm?

\_\_\_\_\_ Yes \_\_\_\_\_ No

**JUROR NAME:** \_\_\_\_\_

**JUROR NUMBER:** \_\_\_\_\_

If yes, please explain: \_\_\_\_\_

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- g. Do you believe there should be caps or limits on the amount of money juries can award? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain: \_\_\_\_\_

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16. Do you believe most large public companies behave ethically and responsibly?

\_\_\_\_\_ Yes \_\_\_\_\_ No

Please explain:

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17. Do you typically spend time on the Internet or social media?

If yes, how many hours a day do you typically spend on the Internet or social media, and for what purposes do you commonly use the Internet or social media?

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**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

18. Are you a member of Twitter, Facebook, or Instagram or a similar social media website? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If yes, what functions do you use on those social media sites?

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19. There will be evidence that Mr. Avenatti used aggressive and perhaps offensive language during several negotiations with Nike lawyers. Would that interfere with your ability to be a fair and impartial juror in this case? \_\_\_\_\_ Yes \_\_\_\_\_ No

If so, why? \_\_\_\_\_  

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20. Have you, a family member, or a close friend ever worked in law enforcement (including state or local police departments, the FBI, the Securities and Exchange Commission, any prosecutor's office, the Department of Corrections, any regulatory agency, etc.): \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain: \_\_\_\_\_  

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21. Have you, your spouse/significant other, and/or a close family member ever served in the military? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, what branch and how long: \_\_\_\_\_

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

22. Who are the three publicly known people you admire most?

- a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_

23. Who are the three publicly known people you admire least?

- a. \_\_\_\_\_  
b. \_\_\_\_\_  
c. \_\_\_\_\_

24. What are your hobbies? \_\_\_\_\_

25. What is your main source for news? \_\_\_\_\_

26. Please list any newspapers and/or magazines that you read on a regular basis:

\_\_\_\_\_

27. Please check which of the following news stations you watch on a regular basis:

\_\_\_\_\_ CNN

\_\_\_\_\_ FOX

\_\_\_\_\_ MSNBC

Please list any others: \_\_\_\_\_

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

28. Have you ever served as a juror at trial? \_\_\_\_\_ Yes \_\_\_\_\_ No

If applicable, please briefly described the case(s) in which you served as a juror, using the following table:

Civil or Criminal	Type of Case (e.g. personal injury, homicide, etc)	Did you reach a verdict, did the jury hang, or was the case settled? If you reached a verdict, what was it?

29. If you have served on a civil jury, you must understand that the burden of proof in a criminal case requires the prosecution to prove the defendant's guilty "beyond a reasonable doubt," while in civil cases the burden of proof requires the plaintiff to prove his or her case by a preponderance of the evidence, which is a far lesser standard. Do you feel that you might have difficulty following the law as it applies to this case, a criminal trial? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain: \_\_\_\_\_

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30. Have you ever served as a grand juror? \_\_\_\_\_ Yes \_\_\_\_\_ No

If you have served on a grand jury, you understand that grand juries bring charges based on "probable cause," while in criminal cases the burden of proof requires the prosecution to prove the defendant's guilt "beyond a reasonable doubt," a much higher standard. Do you feel that you might have difficulty following the law as it applies to this case – a criminal trial? \_\_\_\_\_ Yes \_\_\_\_\_ No

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

If you have served on a grand jury, did anything happen during your time as a grand juror that might affect your ability to be fair and impartial in this case?

\_\_\_\_ Yes      \_\_\_\_ No

If yes, please explain: \_\_\_\_\_

31. Have you ever testified as a witness at any kind of legal proceeding, including a case or trial?

\_\_\_\_ Yes      \_\_\_\_ No

If yes, please explain: \_\_\_\_\_

32. Have you ever been involved in a civil or criminal proceeding as either a plaintiff or defendant?      \_\_\_\_ Yes      \_\_\_\_ No

If yes, please explain: \_\_\_\_\_

**JUROR NAME:** \_\_\_\_\_

**JUROR NUMBER:** \_\_\_\_\_

33. If this case receives media attention, will you be able to follow the Court's instruction that you are not to watch television, go on the internet or social media, read newspapers, magazines, or any other form of print media, and/or listen to or watch any media coverage regarding this case or do research about Mr. Avenatti and that the only evidence you are permitted to consider is that which is presented in court? \_\_\_\_\_ Yes \_\_\_\_\_ No

If no, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

34. What are your thoughts about the criminal justice system in the United States?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

35. Mr. Avenatti is presumed innocent and cannot be convicted unless the jury, unanimously and based solely on the evidence presented in court, decides that his guilt has been proven beyond a reasonable doubt. The burden of proving guilt beyond a reasonable doubt rests entirely with the government. Mr. Avenatti has no burden of proof whatsoever and he is not required to present any evidence. Would you have any difficulty following these rules?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

36. An indictment itself is not evidence. It merely is a document that describes the charges the government has brought against Mr. Avenatti. It is only an accusation. It may not be considered by you as any evidence whatsoever of Mr. Avenatti's guilt. Would you have any difficulty following this rule of law? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain: \_\_\_\_\_

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37. Under the law, Mr. Avenatti need not testify in his own defense. If he does not testify, the jury may not consider that fact in any way in reaching a decision as to whether a defendant is guilty. Would you have any difficulty following this rule of law?

\_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please explain: \_\_\_\_\_

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38. Are you or anyone you know acquainted with any of the following individuals?

Matthew Podolsky

Robert Sobelman

Daniel Richenthal

Scott Srebnick

Jose Quinon

[Add Names of Witnesses]

**JUROR NAME:** \_\_\_\_\_  
**JUROR NUMBER:** \_\_\_\_\_

39. If you circled anyone above, please explain how you know the individual(s):

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40. Is there any reason that you cannot be a fair and impartial juror in this case for reasons that have not been covered in this Questionnaire?

\_\_\_\_ Yes      \_\_\_\_ No

If yes, please explain: \_\_\_\_\_

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**DECLARATION:**

I, \_\_\_\_\_ declare under penalty of perjury that the foregoing answers set forth in his Jury Questionnaire are true and correct to the best of my knowledge and belief. I have not discussed my answers with others, or received assistance in completing the questionnaire.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
(Signature)